

*Risk and Responsibility in Women's Prisons**

I have been invited to discuss Risk and Responsibility in Women's Prisons, a task which, is slightly intimidating for one such as I, who, having never worked in a prison, have never experienced the risks and responsibilities working in a prison entails. However, this discussion is based on what prisons' staff have told me, as they have ruminated on the complexities of their jobs in women's prisons and many of the examples which I will be using are taken from cross-national research which I did in 2000 and 2001 and which set out to analyse the fortunes of some innovative programmes in relation to women's prisons in England, Scotland, North America, Australia and Israel (Carlen 2002). The discussion draws in particular on the imaginative way in which the Scottish women's prison, Cornton Vale, responded to the spate of suicides which it had in the late 1990s and which resulted in far reaching organizational change.

Risk and responsibility

In recent years 'risk' has come to mean all things to all people in the criminal justice and penal systems. This paper discusses only one type of risk, and two types of responsibility. The *risk* is that which is inherent in the burgeoning prison business. In relation to *responsibility*, I first put forward arguments as to why governments have an overall *responsibility to curb the growth of the prison business*. *The second type of responsibility* discussed is less radical. It is based on an assumption that while prisons exist, there will always be better and worse prisons; and, therefore, that it is the *responsibility* of governments to engage *all people working in prisons in ongoing discussion about the elements of a penal probity*, aiming to make them better rather than worse. And in relation to that second responsibility, I shall argue that at the present time, three of the concepts which might shape discussions of the penal probity of new programmes and regimes in relation to women might be: minimal carceralism; cultural specificity; and, in relation to staff, remoralisation rather than responsabilisation.

I. The Risk: the prison business

In recent times women's prison populations have soared. In response both to the increased populations and the increasing pressure of campaigning groups insisting that women have traditionally been the neglected other of prison systems designed for men, many jurisdictions have developed a whole panoply of in-prison programmes, policies and strategies designed to address women's 'needs'. A good thing you might think? Well no.

There is mounting suspicion among campaigners and professionals in England and Canada, for example, that the women's prison system is feeding off itself — with relatively high numbers of recidivists on the one hand and, on the other, sentencers sending women to prison because they nowadays mistakenly think that in-prison programmes and reforms can prevent future lawbreaking. And there is widespread belief amongst the relevant professionals in England and elsewhere that there should be less emphasis on prison-regime reforms and programming, and more on first resettling women in their own safe

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accommodation; and then, secondly, on supporting them in struggles against addiction and abusive relationships. And, of course, anti-prison campaigners have research evidence on their side: studies of desistance from crime suggest that what happens outside prison in terms of housing, jobs and personal relationships is much more important than any brainwashing attempts made via prison programming; while, from a different perspective, studies of women's prisons suggest that imprisonment causes more psychological damage than any in-prison therapy can ever cure. Nonetheless, in England and Wales at least, instead of the co-ordinated community provision recommended by all previous inquiries and reports, we now have the cross-national adoption of 'cognitive behavioural' programmes which have been exported from Canada and which in England cost between £2000 and £2500 per prisoner (Kendall 2002). Overall, these programmes are most probably harmless, and, insofar as they help women pass the time more pleasantly in prison, may even be beneficial; but their claims to reduce recidivism are unproven. More worryingly, there may well be a link between the increased numbers of women sentenced to imprisonment (together with a possible transfer of resources from community to prison for drugs programmes) and the increasingly contested claims that the various programmes based on 'cognitive behavioural' approaches can reduce recidivism.

But in-prison programming is only part of the women's prison business. There are also: 'partnerships' between prisons and feminist groups (England and Canada); inappropriate 'audits' to measure the quality of life in prison; 'mission' statements claiming the impossible; a whole paraphernalia of managerialist business which seems to know the quantity of everything and the quality of nothing; and lastly, a prison-speak translation department which has recently made the following translations: risk as dangerousness has become risk as need; need as welfare need has become criminogenic need requiring psychological readjustment; and the prison accountability which gave us prison inspectorates and prison Ombudsmen has been translated into prisoner accountability, making prisoners responsible for their own rehabilitation or its failure. And in addition to all this, comparison of what is happening now in England with what has already happened in Canada and the United States indicates the emergence of a 'prison programming/increased prison population' syndrome. In the case of women's imprisonment, it is typically triggered when public inquiries result in recommendations for a three-pronged reform strategy: new in-prison programmes; radical reduction in the numbers sent to prison; and increased community provision. In response, new psychology-based programmes are set-up in the women's prisons and unfounded claims (or unfulfilled promises) are made that they will reduce recidivism. But the community provision and sentencing reforms are quietly let slide.

The ideological justification for this emphasis on psychological readjustment rather than social integration is, as I have already pointed out, effected by a translation of welfare need into psychological need. Whereas 'need' was previously seen to mean 'welfare need', it is nowadays translated into 'risk of re-offending' which, in new prison speak becomes 'criminogenic need' requiring psychological re-programming in prison.

Non-custodial programmes holding to the notion that women suffer more from economic deficits than cognitive deficits, and which attempt to show women how to cope practically and lawfully with their daily problems, do not receive official accreditation; traditional in-prison programmes (such as art and discussion groups) deemed to be without anti-criminogenic purpose are abandoned in favour of cognitive behavioural programmes parachuted in from Canada and originally designed for *men*.

Courts, impressed by the claims about the success of in-prison programmes in meeting criminogenic need, and not hearing much about the community programmes or the research which suggests that the claims of the psychological programmers are ill-founded, send more and more women 'at risk' to prison. As more women prisoners are in poverty (and therefore 'at risk') than male prisoners, the disproportionately increasing numbers of female prisoners has a knock-on effect in the men's prisons, leading to more overcrowding there. Overcrowding in the women's prisons results in a lack of fit between the locations of programmes and the locations of prisoners and the gap between reform rhetoric and reform reality becomes wider than ever. Having been inappropriately imprisoned, women go out of prison materially worse off than when they went in, they re-offend and the increasing female prison population, together with programming propaganda, suggests that there is a new type of female criminal who should be imprisoned — and the whole circle begins again.

The main lesson to be learned from that little scenario — with which, I admit, I may have taken some artistic licence — is that community reintegration and penal incarceration are two entirely different and opposed processes and that when the former is invoked to justify the latter there is a strong risk that the prison population will rise. If a court decides that the only *punishment* for an offender is that she should be sent to prison, then let us at least be honest enough to say that women go to prison for punishment. And in so doing, to act with a penal probity that calls a women's prison a prison and does not pretend it is something else (for example a hospital, an addictions rehabilitation centre, and educational establishment, or a women's refuge where the powerless can be 'empowered' and the impoverished learn to take responsibility for their own impoverishment). Prison programming cannot provide the magic bullet which will reduce recidivism independently of a change in women's circumstances outside prison. Meanwhile, however, the women's prison population steadily increases as courts continue to succumb to the promises of programming and ex-prisoners continue to succumb to the realities of poverty, homelessness and addictions.

The risk inherent in the prison business is that it results in what Stan Cohen (1983) famously called '*net-widening*', and, in this particular case, in a net-widening mistakenly based on an assumption that programme provision can reduce recidivism and, concomitantly be assessed in terms of recidivism reduction. However, it seems to me that a *responsible* approach to imprisonment would *roll back the prison business* on the grounds that both these claims are false: first, because the essential nature of prison means there are insuperable limits to prison reform; and secondly because the quality of life in prison is not reducible to a quantitative audit which can assess the claims of programmes to reduce recidivism — that in fact, the ways in which prisons are run should be first and foremost run according to a penal probity which will sometime have to make moral decisions that certain ways of treating prisoners are '*good in themselves*'. The **second responsibility** of governments therefore is the *quest for penal probity* (in terms of its dictionary meaning of honesty and moral integrity) about why prison populations and prison regimes take the forms they do.

II. The first responsibility : rolling back the prison business

1. *Carceral clawback and the limits to in-prison reform*

The concept of carceral clawback is based on the domain assumption that a logical and necessary condition of imprisonment is that prisoners must be kept in (otherwise the prison would be no more). Therefore, logically, the prison necessarily has to engage in a carceral

clawback whenever its being as a prison is threatened by any perceived erosion of security arrangements, including the minutiae of everyday controlling measures upon which absolute prison security is seen to depend. But, 'So what?' you might say. Why should the strict maintenance of security controls militate against the effectiveness of in-prison programmes? Take the following examples.

One of the commonly described characteristics of women prisoners is 'low self-esteem'. Is it possible to believe that *any* person's self-esteem would be enhanced by the regular strip-searching which women in prison undergo in the name of security? Similarly, with programmes designed to help women be more assertive or manage their anger better. Prisoners are not expected to answer back or question rules. So much for self assertion! And as for anger? Is it not hypocritical to offer anger management techniques in a situation where strip-searching and innumerable petty rules are such that they would be likely to try the patience of a saint?

Why would the same (or similar) programmes be more acceptable if run on a non-custodial basis? Because, apart from the legal requirement that the convicted women attend as the penalty for their lawbreaking, they need be subject only to the rules and conventions of normal social life and civil society and not to a 'prison law and lore' which often, in the name security, subverts those normal rules and conventions in ways that are unlikely to enhance prisoners' ability to cope with life any better after prison than they did before they went in.

2. Quality of life and the limits to audit

Now the second reason for rolling back the prison business is because a considerable part of it purveys auditing services which are inappropriate for assessing the qualitative inputs that are required to address women prisoners' needs. Let me give you an example. It is in relation to a non-custodial facility, but the moral still holds.

When I was recently doing research in the United States I was asked how one could evaluate a programme for homeless drug users which was not having much success in terms of immediately turning young women away from drug usage, but which was improving their general health, increasing their education levels and, in some cases (though only in *some* cases) reducing the frequency of their being in trouble with police and courts. When I asked the programme leaders whether they could make an argument that attendance at the programme was a 'good in itself', or whether they could put forward arguments based on the morality of providing shelter for otherwise homeless and destitute women, they were quite troubled and slightly embarrassed. The immediate response was to inquire as to whether I was, as they put it, 'religious'; and, when I replied that I was not, they went on to explain to me that to talk of either 'moral good' or morality would make their financial backers think that the project leaders themselves were employed by a religious organisation, and that that would not go down very well. Nor they said, did they want to be seen as 'do gooders'. They wanted to be seen as realists. Yet they *were* doing good, and their answers to my interview questions suggested that 'doing good' had been one of their main objectives in setting up the programme. I am not criticising their strategy. What I am regretting is that what I saw just one instance of in the United States, mirrors the dominant situation in England nowadays, where professionals in the criminal justice system have to do good by stealth for fear of being seen as being unprofessional 'do gooders' whose non-quantifiable moral or qualitative inputs into their work are defined not only as being non-auditable but also, and, consequently, as having 'no value'; where, in fact, the moral dimension of both social policy and social science is suppressed.

Ten years ago now, the authors of a book entitled *How Organisations Measure Success*, (Carter et al. 1992) pointed out that it is usually impossible to measure the impact on society of specific social policies for three main reasons: the problem of multiple objectives; the difficulties of specifying and understanding the relationships between intermediate outputs and output measures; and the inevitable time lag between input and impact, especially in programmes 'where the benefits only become fully apparent over decades'. Attempts to measure the outputs of many in-prison and rehabilitation projects for women fall foul of all three strictures, while paper and other routine organizational outputs tell nothing about either the quality, or the relative importance, of their audited activities in reducing recidivism in the future or of improving the quality of life of project participants and their children.

The limits to the quantification of qualitative measures, however, become most apparent when projects are explicitly committed to making, and sustaining, qualitative changes not amenable to measurement, and when the assessment of (at least some of) the success of those changes called for moral rather than quantitative evaluations — for example, the anti-suicide strategy at Cornton Vale. Many project workers there expressed the view that when they are faced with women on the edge of despair or even death, one prerequisite for the preservation of life and the maintenance of staff morale is official recognition that, not only in life and death situations, but also in many of the other emotionally-draining experiences characteristic of work with women in trouble with the law, qualitative inputs are called-for, the value of which are not amenable to measurement as *performances*; and, moreover, that time-consuming but life-supporting responses (*inputs*) involving listening, kindness and comfort, together with other *non-programmable* therapies may be *good in themselves*.

III. The second responsibility: the quest for penal probity

There is no recipe for penal probity, of course. Indeed, in talking of the quest for penal probity I am talking about a desirable process — saying no more and no less than that a conversation must go on between everyone involved in the criminal justice system about how prisons can be run according to moral principles which do not seek to justify imprisonment by dishonestly arguing that prisons can do something that they can't (for instance, 'win the war on drugs', or 'reduce recidivism') but instead aim to make prisons moral communities which limit the damage done to prisoners and the harm done to society. For it is in 'penal probity' discourse and conversations about the limits to sovereignty (and concomitantly, the resultant individual moral responsibilities of those employed by the state) that the possibilities for a more flexible, ameliorative penalty are revealed. Though such an ameliorative penalty would certainly not change either institutional or societal power relations, it might temporarily (ie for the duration of their imprisonment at least) halt the damage being done to individual prisoners by the pains that imprisonment inevitably entails.

You might ask, but surely in order to limit the harm done to society, prisons should go beyond damage limitation to programmes designed to reduce recidivism? My argument is that when prisons claim to do this they are first claiming the impossible and secondly, likely to be in part responsible for increases in the prison population.

So, as part of the quest for penal probity may I suggest three possible keynote themes which might inform strategies relevant to women's prisons today.

1. Minimal carceralism

i. In relation to sentencing, the main implication of the concept of ‘carceral clawback’ is that as the possibilities for reforming prison regimes are so limited, any programmes of principled (as opposed to legitimating cosmetic) in-prison reform must be accompanied by a real reduction in the numbers of women being imprisoned. Indeed, one of the main conclusions of the Canadian criminologist Kelly Hannah-Moffat who analysed the disappointing progress of the Canadian reforms of the 1990s was that ‘[h]ad the money spent on the new regional prisons been used to implement ... the community strategy involving decarceration’, the reform outcomes may have been much more positive (Hannah-Moffat 2001:199). It is only with much smaller and more stable prison populations that prison staff have any chance of engaging in the quest for prison probity which may well be the hallmark of healthy penal policy. The concept of a ‘healthy prison’ is a contradiction in terms, but I’m defining a healthy penal policy as being one which limits the damage which prisons do to prisoners.

ii. Within prisons, minimal carceralism refers to the desirability of an ongoing conversation questioning the security value-added of every prison practice that is justified in the name of prison order and security. This is especially important in relation to women. For, given that in many jurisdictions women prisoners have committed less serious crimes, are less of a risk to the public if they escape, and the public have less fear of women, it is doubtful whether constant strip searching, humiliating drug testing and close surveillance *is* always as necessary on security grounds as is sometimes implied. Again the Canadian criminologist Kelly Hannah-Moffat has used the concept of *encroachment* to describe how pre-existing organisational norms frequently encroach upon and undermine and destroy the logic of innovation. And it is for that reason that I am emphasising the importance of creating a space where the necessity for everything done in the name of security is constantly questioned so that the tendency for carceral clawback is kept under control, and only encroaches minimally on attempts at damage limitation.

2. Cultural specificity (according to, age, gender, ethnicity, sexual orientation)

The second principle refers to the need to constantly analyse prison organization and process in the light of what we know about cultural differences which the normal prison organization does not allow for, and in not allowing for them, causes additional pain to particular groups. The pains of imprisonment which discriminate against women in prisons designed and organised for men, or ethnic minority women in prisons which cater primarily for white people, have nowadays been well-documented; but aging women also find their specific needs neglected in prisons organised primarily for young women; and sometimes lesbian women’s talk about partners and home problems outside prison are not taken seriously by prison staff. In prisons geared to damage limitation the quest for penal probity would entail a constant questioning of the provision made for cultural difference of all kinds and the appropriate treatment of prisoners would be decided within a moral calculus of prisoner-need rather than a contractual one of prisoner-desert.

3. Remoralisation (of staff) rather than responsabilization

For penal probity to be constructed through constant questioning about the morally appropriate ways to treat prisoners, there has to be a re-moralisation of staff and staff discourse. I suggest that at least three steps can be taken to increase the levels of remoralisation (Carlen 2001).

i. For support/against blame culture

In order to explain what I mean here, I need to speak again about the changes that took place in the Scotland's women's prison after the suicide scandals towards the end of the 1990s. The governor rightly saw a change in staff culture as being a number one priority if other changes were to be successful. As a first step she had to nullify the effects of the blame culture which had flourished in British prisons in recent years. Within this culture of recrimination, prison personnel were expected to act with discretion in a highly hierarchical structure but could expect only blame, rather than understanding or support from superiors, when things went wrong. Combined with a renewed emphasis upon security in relation to both the control of illicit drugs in prison and the prevention of escapes, this threatening culture of blame reduced even further the inclination of prison officers to question whether hierarchical organization of responsibility was best suited to addressing the problems posed by the ever-increasing population of young female drug users. A prerequisite to lasting organizational change, therefore, was to create a new corporate responsibility amongst prison personnel, and to convince them that, when faced with a 'potential suicide' situation, they should (within the prison rules and policy directives) use their professional discretion to act according to the needs of the specific situation and prisoner. They should 'act to care', and, moreover, it was emphasised *that they would be supported for so doing*.

ii. Democratic ownership of innovation

The central strategy of change employed at Cornton Vale was the democratization of staff input into the programmes to combat prisoner suicide-proneness. But it was not an individualisation of responsibility with its accompanying personalised blame and vulnerability to risk — the strategy favoured by states anxious to distance themselves from failures in crime control and which criminologists have called *responsibilization*. Instead, it was deemed that a *corporate* and more *democratised* structure of decision-making was required, together with a continuing debate about the probity of the rules and practices governing the life of the whole custodial community. The new structuring of responsibility indicated that when confronted with a suicidal prisoner, custodial staff would be supported (and not blamed) if they used their discretion with intent to save life. Interestingly, this strategy did not involve a displacement of responsibility from more senior to less senior or even junior staff, but it did extend shares in the ownership and shaping of innovation to the staff who actually had to operationalise it. Thus, unlike the 'responsibilization' strategies described by criminologists, whereby the state *distances* itself from responsibility for crime control by making communities responsible for crime prevention, and prisoners responsible for their own reform and rehabilitation, the Cornton Vale 'corporate community' approach not only implicated state employees at all levels, it also opened up the way for them to sow the seeds of effective change from within (cf Marks 2000). Therefore, in terms of governance, it might more appropriately be represented as a *remoralization*, (in one sense, of penal discourse; in another, of penal personnel) than a *responsibilization* (of either staff or prisoners) strategy. According to the personnel interviewed, the extension of 'problem-ownership' helped secure a very positive and 'bottom-up' staff involvement in the regime innovations, as well as lifting morale after the critical and public hammering Cornton Vale had taken at the hands of its critics. However, such a change in prison culture had other consequences. It opened up a space where staff at all levels became more critical — of the sentencing practices of the courts and of the myth that all their prisoners are criminals in need of the strongest security.

The speed and effectiveness of the required changes at Cornton Vale suggest that internal challenge and resistance from within is one of the most effective and direct mechanisms for bringing about organizational change, especially when it is accompanied

by an explicit commitment by the agency itself to change in even the formal rules. Instead, when the formal structures encourage a moral entrepreneurship directed at both saving and enhancing prisoners' lives *and* safeguarding the staff's own moral reputations, groups of penal personnel, or even individuals, may challenge the moral probity of existing regimes, and effectively promote changes that alter for good the quality of the in-prison lives of both staff and prisoners.

iii. Evolutionary development of process and structure

An evolutionary (rather than revolutionary) approach to the development of prisoner-need-responsive processes and structures was an inevitable concomitant of management's commitment to sharing the shaping of policy innovation with staff at all levels and in all specialisms (i.e. medical, nursing, social work — as well as prison officers). It entailed an emphasis on process rather than rigid structures and an ongoing commitment to the creation of a caring community rather than a short-term commitment to programmes, projects or fashionable penal 'gimmicks'. Thus although, in line with official Scottish Prison Service policy, the Governor had to ensure that regimes and programmes were 'accredited', 'audited' and evaluated according to transparent criteria, programmes developed in other countries or for men (such as cognitive skills acquisition) were not parachuted into the prison as prisoner-processing packages with a universal application; instead, they were gender-assessed and adapted to the very specific needs and attributes of *Scotland's* imprisoned *women*.

To conclude

In recent years the question 'What Works' in prisons has been much more to the fore in official discourse than questions of penal probity. Logically, 'prison works' if it keeps in secure custody those entrusted to it by the courts. But 'nothing works' if governments also speciously promise that prisons will deliver 'rehabilitation' or a 'reduction in recidivism' (objectives impossible of definition and exact measurement).

So a third way — between 'prison works' and 'nothing works' — might recognise first: that prison staff will be successful if they fulfil the twin aims of keeping prisoners in custody *and* limiting the damage done to them; and second, that, in order to fulfil those aims, prison personnel will have to 'act to care' with an ethical compassion, the correctness of which, though it cannot be measured quantitatively, can still be assessed within a moral discourse about penal probity.

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